

11  
CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 22 OF 2002  
Cuttack, this the 2<sup>nd</sup> day of January 2004

Smt. Kanakalata Dcvi

.....

Applicant

Vrs.


Union of India and others

.....

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? ~~Yes~~ NO

  
(B.N. SOM)  
VICE-CHAIRMAN

12

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 22 OF 2002  
Cuttack, this the 2<sup>nd</sup> day of January 2004

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN  
.....

Smt.Kanakalata Devi, w/o Sri Lochan Nayak, A/Plot No.A/408, Sahid  
Nagar, Bhubaneswar, Dist. Khurda

.....

Applicant

Advocate for the applicant -

M/s. D.R.Pattnayk  
M.K.Khuntia, N.S.Panda,  
S.R.Mohapatra.

Vrs.

1. Union of India, Ministry of Textiles, Department of Textiles, New Delhi, represented through the Secretary.
2. The Director, Weaver's Service Centre, Government of India, Department of Textiles, Pub Sarania Road, Guwahati, Assam.
3. The Deputy Director, Weaver's Service Centre, Government of India, Department of Textiles, Plot No.A/407, Sahid Nagar, Bhubaneswar

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Respondents

Advocate for the Respondents -

Mr.A.K.Bose, Sr.CGSC.

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Smt.Kanakalata Devi  
challenging the Office Memorandum dated 29.10.2001 (Annexure 3)

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issued by Respondent No.2 rejecting the representation of the applicant for consideration of her case under the Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993.

2. The applicant's case is that she has been working in the post of Sweepress in the Respondent organization for past more than eleven years, but she has neither been regularized nor granted temporary status by the Respondents. She had come before this Tribunal earlier in OA No.43 of 1995 with the same grievance. After hearing the matter the Tribunal had rejected her plea for regular appointment to the post of Sweepress in the light of the Apex Court judgment in the case of State of Himachal Pradesh v. Suresh Kumar Verma and another, AIR 1996 SC 1565. The Tribunal had, however, directed that as the applicant was called for interview for selection to a post of Sweepress at Guwahati on 19.1.1995 in pursuance of the order of the Tribunal's order dated 18.1.1995 and if she had been selected, then the Respondents should take further action accordingly. The Tribunal had also directed the Respondents to work out the wages payable to the applicant with reference to her hours of work and with reference to minimum wages

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applicable to unskilled workers and fix her daily wages accordingly and pay her the same from the date the minimum daily wages for unskilled workers including Sweeper have been increased. In the present Original Application, the applicant has submitted that none of these directions of the Tribunal, as stated above, has been complied with by the Respondents, which would reveal from the Office Memorandum dated 29.10.2001, at Annexure 3. The result of interview in which she had appeared on 19.1.1995 has also not been announced although the post of Sweeper is lying vacant since 1990.

3. The Respondents have filed a detailed counter in the matter. They have stated that as the applicant was engaged purely on ad hoc basis at a contractual rate of Rs.11/- per day for 1 ½ hours, i.e., from 8.00 A.M. to 9.30 A.M., she was not entitled to regularization. With regard to the result of interview, the Respondents have submitted that the interview was duly held on 19.1.1995. The applicant was not only considered but her name was recommended at No.1 in the panel subject to giving her relaxation of age for appointment beyond 30 years. They have submitted that at the time of her initial engagement as Contingent

Sweeper in 1990, she had crossed the age of 30 years which is the maximum age for appointment to Group D post. However, her case was taken up by Respondent No.2 with Respondent No.1 for age relaxation which was not agreed to by the Department of Personnel & Training. While the matter was thus in correspondence between the Respondents, the post of Sweeper for which she was interviewed was abolished with effect from March 2000.

4. I have heard the learned counsel for both the parties and have perused the records placed before me.
5. As the post of Sweeper has since been abolished from 2000 and as appointment of the applicant could not take place as she was over-aged in terms of the Recruitment Rules, she is not entitled to any relief with regard to her regular appointment. However, with regard to payment of wages to her, I am not convinced by the orders passed by Respondent No.2 at Annexures 3 and 4 as also the averments made by the Respondents in the counter. It was the direction of this Tribunal vide its order dated 18.11.1997 that the Respondents should work out the wages payable to the applicant with reference to her hours of work

16

and pay her pro-rata with reference to minimum wages payable to unskilled workers as notified under the Payment of Minimum Wages Act by the State Government from time to time. In view of this clear-cut direction of this Tribunal, it was not open to the Respondents not to revise her wages from the date of her appointment till the date of her disengagement. Having regard to the above, I hereby order that the Respondents shall carry out revision of the wages payable to the applicant from the date of her engagement as Contingent Sweeper (casual worker) till the date she was disengaged and make payment thereof to the applicant within a period of ninety days from the date of receipt of this order.

6. With the above observation and direction, the Original Application is disposed of. No costs.

  
(B.N.SOM)  
VICE-CHAIRMAN

AN/PS